

**REMARKS**

In this Amendment, Applicants amend the specification, claims 1, 4, 11, 12, 13, 22, 23, 32, 40, 43, 50, 51, 52, 61, 62, and 71, and FIGs. 2-3. Claims 1-71 remain pending, with claims 33-39 withdrawn from consideration. Of the claims under examination, claims 1 and 40 are independent.

Amendments to claims 1 and 40 are supported by the disclosure of U.S. Provisional Patent Application 60/435,601, e.g. at pages 18 and 19, the entirety of which has previously been incorporated by reference. The originally-filed specification, claims, abstract, and drawings fully support the amendments to the specification, claims 4, 11, 12, 13, 22, 23, 32, 43, 50, 51, 52, 61, 62, and 71, and FIGs. 2-3. No new matter has been introduced.

Based on the foregoing amendments, Applicants traverse the objections and rejections above and respectfully request reconsideration for at least the reasons that follow.

**I. DRAWINGS/SPECIFICATION**

Applicants amend Figs. 2 and 3 and the specification to properly reference sensors 125.

**II. CLAIM INTERPRETATION**

Regarding claims 1, 4, 7, 8, 12, 13, 25-31, 40, 43, 46, 47, 51, 52, and 64-70, the Examiner provides his interpretation of the claim limitations and indicates which limitations will or will not be given patentable weight. Applicants do not necessarily agree with the Examiner's interpretations and assertions, and address these assertions as follows.

Claims 1 and 40 positively recite "at least one slide." The Examiner's assertion with regard to the claim term "section" was addressed in the response filed June 7, 2010. Claims 4 and 43 positively recite "an air inlet/outlet manifold." Claims 12, 13, 51, and 52 positively recite a "pressure control device configured to provide . . ." Regarding claims 25, 25, 27, 29, 30, 31, 64, 65, 66, 68, 69, and 70, Applicants note that there is no prohibition against functional claim language. see M.P.E.P. 2173.05(g). Claims 32 and 71 recite a "carrier rack," as positively recited in claims 1 and 40.

### **III. OBJECTIONS TO THE CLAIMS**

Applicants amend claims 11 and 50 and respectfully request the withdrawal of the objection thereto. Regarding claims 17 and 56, the claim elements "exhaustion device" and "fan" are not directed to the same element. As recited the "exhaustion device" of claims 16 and 55 and the "fan" of claims 17 and 56 are part of the ventilation system. This arrangement is further detailed in the specification, e.g. at page 10, lines 14-28. Applicants amend claims 25 and 64 and respectfully request the withdrawal of the objection thereto.

### **IV. 35 U.S.C. §112 REJECTIONS**

Applicants amend claims 4 and 43 and respectfully request the withdrawal of the 35 U.S.C. §112 rejection thereto. Amended claims 4 and 43 positively recite "an inlet/outlet manifold" as part of the claimed apparatus.

Applicants respectfully traverse the 35 U.S.C. §112 rejection of claims 16 and 55. Claims 16 and 55 require only that the ducts are capable of exchanging the air in the interior space. Applicants specification, at page 9, lines 8-15, describes that exhausted

air may be directed to multiple destinations. Claims 16 and 55, therefore, distinctly claim subject matter commensurate with Applicants specification.

Applicants respectfully traverse the 35 U.S.C. §112 rejection of claim 40. As amended, claim 40 positively recites structural elements of the claimed automatic staining section. Claim 40, as amended, meets the statutory requirements of §112.

Applicants respectfully traverse the 35 U.S.C. §112 rejection of claims 8-11 and 47-50. The Office Action asserts that "there is no recited or claimed structural element(s) that requires the covered housing to be partitioned into multiple closed spaces." Applicants respectfully disagree. Claims 8 and 47 recite that "a plurality of interior spaces of the apparatus is defined by said plurality of covers." The claimed structure of the plurality of covers defines multiple closed spaces. Claims 8-11, and 47-50, therefore, meet the statutory requirements of §112.

Applicants amend claims 22, 23, 61, and 62 and respectfully request the withdrawal of the 35 U.S.C. §112 rejection thereof. Amended claims 22, 23, 61, and 62 clearly recite the structural location of the outlet. Claims 22, 23, 61, and 62 therefore, meet the statutory requirements of §112.

## **V. 35 U.S.C. §102 REJECTIONS**

Applicants respectfully traverse the 35 U.S.C. §102(b) rejection of claims 1, 2, 3, 5, 6, 40, 41, 42, 44, and 45 over Orimo (US 4,338,279). In order to support a rejection under 35 U.S.C. § 102, each and every element of the rejected claim must be found in a single reference. Orimo does not disclose each and every element of amended independent claims 1 and 40, including at least 1)"a plurality of drawers within the housing, each drawer comprising a respective carrier rack for supporting at least one

slide;" 2)"a robotic reagent dispensing head within the housing that performs ongoing robotic processing, including dispensing of reagents;" 3)"at least one sample processing section within the housing for accommodating at least one of the plurality of drawers;" and 4)"wherein a first sample, in a first drawer, for which the processing is completed may be removed from the apparatus without interrupting the ongoing robotic processing of a second sample in a second drawer, and wherein a second sample, in a second drawer, may be inserted into the apparatus without interrupting the dispensing of reagents onto a first sample, in a first drawer, with the robotic reagent dispensing head." Orimo is silent regarding these features of amended claims 1 and 40, and therefore the §102(b) rejection should be withdrawn. Claims 2, 3, 5, 6, 40, 41, 42, 44, and 45 depend from claims 1 and 40 and are also not anticipated by Orimo for at least the same reasons.

Applicants respectfully traverse the 35 U.S.C. §102(b) rejection of claims 1-6, 12-25, 27-32, 40-45, 51-64, and 68-71 over Fish (US 5,946,221). In order to support a rejection under 35 U.S.C. § 102, each and every element of the rejected claim must be found in a single reference. Fish does not disclose each and every element of amended independent claims 1 and 40, including at least the features 1-4 as described above. Fish is silent regarding these features of amended claims 1 and 40, and therefore the §102(b) rejection should be withdrawn. Claims 2-6, 12-25, 27-32, 41-45, 51-64, and 68-71 depend from claims 1 and 40 and are also not anticipated by Fish for at least the same reasons.

## **VI. 35 U.S.C. § 103 REJECTIONS**

Applicants respectfully traverse the 35 U.S.C. §103(a) rejection of claims 1, 2, 5-11, 15-17, 19-22, 25, 27, 30, 31, 40, 41, 44-50, 54-56, 58-61, 64, 66, 69, and 70 Ljungmann (US 6,017,495) in view of Fish. The Office Action asserts that Ljungmann and Fish disclose all of the elements of independent claims 1 and 40, and furthermore that it would have been obvious to combine these references. Ljungmann and Fish, however, taken alone or in combination, do not disclose all of the features of amended independent claims 1 and 40, including at least the features 1-4 as described above. Ljungmann and Fish are silent regarding these features of amended claims 1 and 40, and therefore the instant rejections should be withdrawn. Claims 2, 5-11, 15-17, 19-22, 25, 27, 30, 31, 41, 44-50, 54-56, 58-61, 64, 66, 69, and 70 depend from claims 1 and 40 and are also not obvious in view of the cited references for at least the same reasons.

Applicants respectfully traverse the 35 U.S.C. §103(a) rejection of claims 1, 25, 26, 28, 40, 64, 65, and 67 over Fish in view of Denison (US 1,829,341). The Office Action asserts that Fish and Denison disclose all of the elements of independent claims 1 and 40, and furthermore that it would have been obvious to combine these references. Fish and Denison, however, taken alone or in combination, do not disclose all of the features of amended independent claims 1 and 40, including at least the features 1-4 as described above. Denison and Fish are silent regarding these features of amended claims 1 and 40, and therefore the instant rejections should be withdrawn. Claims 2, 5-11, 15-17, 19-22, 25, 27, 30, 31, 41, 44-50, 54-56, 58-61, 64, 66, 69, and 70 depend from claims 1 and 40 and are also not obvious in view of the cited references for at least the same reasons.

**VII. CONCLUSION**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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Attachments: Two (2) sheets of drawings, containing amended FIGs. 2-3